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PART IV-A

**Rules and Orders (Other than those published in Parts I, I-A, and I-L) made
by the Government of Gujarat under the Central Acts**

LEGAL DEPARTMENT

NOTIFICATION

Sachivalaya, Gandhinagar, 21st January, 2023

WAQF ACT, 1995

No. GK/03/2023/WAQF/102014/47/E:- In exercise of the powers conferred by Section 109 of the Waqf Act, 1995 (Central Act No. 43 of 1995) and all other powers enabling him in this behalf, the Government of Gujarat hereby makes the following rules, namely:-

1. **Short title and commencement.-** (1) These rules may be called the Gujarat State Waqf Rules, 2023.
(2) They shall come into force from the date of their publication in the *Official Gazette*.
2. **Definitions.-** (1) In these rules, unless the context otherwise requires,—
 1. "Act" means the Waqf Act, 1995 (Central Act 43 of 1995);
 2. "authorized representative" means a person duly authorized to act for and on behalf of a person as his attorney by duly executed power of attorney or in the case of a legal practitioner by execution of a "Vakalatnama";
 3. "Board" means the Gujarat State Waqf Board, established under sub- section (1) of section 13;
 4. "ballot box" includes any box, bag or other receptacle used for the insertion of ballot papers by voters;
 5. "Chairperson" means the Chairperson of the Waqf Board, elected under sub-section (8) of section 14;
 6. "count" means all the operations involved in the counting of the votes recorded for candidates;
 7. "election" means an election to fill a vacancy in the office of the members of the Board, under sub - clauses (i), (ii), (iii) and (iv) of clause (b) of sub- section (1) of section 14;
 8. "Election Authority" means Secretary, Legal Department to be the election authority;
 9. "elector" in relation to election to any category of member of the Board means any person whose name is enrolled in the electoral roll of that category unless disqualified by the Returning Officer;
 10. "electoral roll" means the separate list of members of each of the four electoral colleges specified in sub-clauses (i), (ii), (iii) and (iv) of clause (b) of sub-section (1) of section 14;
 11. "encroachment" in relation to any waqf premises means occupation by any person or institution of the waqf premises without authority for such occupation, and includes the continuation in occupation by any

person or Institution of the waqf premises after the authority (whether by way of grant, tenancy or any other mode) under which he was allowed to occupy the premises, has expired or has been determined for any reason whatsoever, and includes any construction, alteration, addition carried out to the building without authority of the Board;

12. "Form" means a form appended to these rules;
13. "Government" means Government of Gujarat.
14. "legal practitioner" shall have the same meaning as assigned to it in the Advocates Act, 1961 (25 of 1961);
15. "premises" means any land or any building or part of building and includes. -
 - (i) the garden, trees and grounds, if any, appertaining to such building or part of the building;
 - (ii) any fittings affixed to such building or part of the building for the more beneficial enjoyment thereof; and
 - (iii) dargah, grave, graveyard, khanqah, peerkhana, karbala, maqbara, mosque, tomb and the courtyard appurtenant thereto;
16. "Registrar" means the Registrar of the Tribunal and includes Assistant Registrar or any other person to whom the Registrar may, with the approval of the Tribunal, delegate any function to be exercised by the Registrar;
17. "Returning Officer" means an officer authorised or appointed by Election Authority to do any act or to perform any function in connection with the conduct of election under these rules;
18. "section"; means the section of the Act;
19. "Tribunal" means the Tribunal constituted under sub-section of section 83;
20. "Waqf premises" means. -
 - (i) any premises dedicated by a person of movable or immovable property orally or by an instrument in writing and used for any purpose recognised by Muslim law as pious religious or charitable;
 - (ii) premises notified as waqf property in the Official Gazette; or
 - (iii) premises registered as waqf in the Register of Auqaf maintained by the Board; or
 - (iv) property treated as waqf by user;
21. "waqf property" means any movable or immovable property referred to in clause (r) of section 3 of the Act and includes premises thereof.
- (2) Words and expressions used and not defined in these rules but defined in the Act shall have the same meanings respectively assigned to them in the Act.

3. **Qualification of mutawalli. —**

- (1) The mutawalli shall be a citizen of India.
- (2) Qualifications of mutawalli of a waqf would be such as specified in auqaf in the waqf deed.
- (3) Where no such qualifications are specified by auqaf, a mutawalli or the President and the Secretary of the Managing Committee shall have.-
 - (a) knowledge of Hindi, Urdu and Gujarati;
 - (b) Working knowledge of Sharia with specific knowledge of waqf law as well as Muslim custom.

4. **Appointment of Survey Commissioner.**— The Government may appoint an officer not below the rank of Deputy Secretary to Government as Survey Commissioner of auqaf and a Gazetted Officer as Additional Survey Commissioner for the purpose of making a survey of auqaf,

5. **Particulars which the report of Survey Commissioner may contain.**— The Survey Commissioner shall submit his report to the Government under sub-section (3) of section 4 of the Act in Form -I.

6. **Powers of Survey Commissioner while making enquiries.**— In addition to the powers conferred on to the Survey Commissioner under sub-section (4) of section 4 of the Act, the Survey Commissioner shall also have the powers in respect of the following matters, namely:—

1. grant of temporary injunctions and interlocutory orders; and
2. appointment of receivers:

- 7. Particulars to be contained in the list of auqaf to be published by the State Government.** — The particular of list of auqaf published under sub-section (2) of section 5 shall be in Form -II.
- 8. Entry of auqaf in revenue record.—**
- (1) The Government, after receipt of the list of auqaf referred to in sub-section (2) of section 5 shall publish in the *Official Gazette* and within a month send it to the Revenue Authorities.
 - (2) On receipt of such lists, the Revenue Authorities shall include them while updating the land record and take into consideration while deciding mutation in the land record and inform the Board with a copy of such entries within six months.
 - (3) If no intimation is sent by the Revenue Authorities to the Board within six months, the entry in the land record in mutation thereof shall be deemed to have been made.
- 9. Government to bear the cost of survey:** The government shall bear the cost of survey including the cost of publication of list of auqaf
- 10. Election of members of the board and Administrative machinery for the conduct of elections, powers and functions.** - (1) The Secretary of the Legal Department, State Government shall be the Election Authority for the purpose of conduct of election under the Act. The superintendence, direction, control in the conduct of election of members of the Board under clause (b) of sub- section (1) of section 14 in ordinary and, casual vacancies shall be his responsibility.
- (2) The Joint Secretary of the Legal Department, State Government shall be the Deputy Election Authority for purpose of conduct of election under the Act. The functions of the Election Authority under these rules may also be performed by the Deputy Election Authority, subject to the control of the Election Authority.
 - (3) The Election Authority shall designate or nominate a Returning Officer who shall be a Gazetted Officer of the Government.
 - (4) The Election Authority may appoint one or more persons as Assistant Returning Officers to assist the Returning Officer:
Provided that the Assistant Returning Officer shall be an officer of the State Government.
 - (5) Every Assistant Returning Officer shall be competent to perform all or any of the functions of the Returning Officer subject to the control of the Returning Officer:
Provided that, no Assistant Returning Officer shall perform any function of the Returning Officer which relates to the scrutiny of nominations unless the Returning Officer directs him so to perform.
 - (6) Subject to the other provisions of these rules, the Election Authority shall be responsible for the conduct of elections of the members of the Board and shall have the following powers,—
 - (a) to fix date, place and time of election;
 - (b) to specify the Form of notice, nomination, letter of intimation, declaration paper, ballot paper, ballot paper cover and the envelope for the election, the form of any other record to be prepared or maintained in relation to an election and the instructions to be contained in the notification;
 - (c) to decide, in case of doubt, the validity or invalidity of each ballot paper of each vote recorded thereon;
 - (d) to declare the result of each election; and
 - (e) to fix-
 - (i) the date of notification;
 - (ii) the last date for receipt of nomination;
 - (iii) the date of scrutiny of nomination and publication of list of candidates validly nominated;
 - (iv) the last date and hour for withdrawal of candidature;
 - (v) the date of publication of the final list;
 - (vi) the date and hour for poll; and
 - (vii) the date and hour of scrutiny and counting of votes.
 - (7) The election under these rules shall be held in accordance with the system of proportional representation by means of single transferrable vote.

11. Electoral Roll.— (1) The Election Authority shall obtain the list of persons eligible to vote in the categories mentioned in sub-clauses (i), (ii), (iii) and (iv) of clause (b) of sub-section (1) of section 14 of the Act from the officers specified in sub-rule (2) and the list of such persons subject to any modification as per rule 12 shall form the Electoral College for that category and the persons whose names find place in the list, shall be electors for that category of members.

(2) The category-wise lists shall be obtained as follows :—

- (a) Muslim members of Parliament from State and in case Muslim member of Parliament is not available, ex-Muslim member of Parliament, from the Lok Sabha / Rajya Sabha;
- (b) Muslim members of State Legislature and in case Muslim members of State Legislature is not available ex-Muslim member of State Legislature, from the State Legislative Assembly;
- (c) Muslim members of State Bar Council of Gujarat and in case Muslim member of State Bar Council is not available, ex-Muslim member of State Bar Council of Gujarat;
- (d) for Category under Section 14 (i)(b)(iv), from the Chief Executive Officer of the Gujarat State Waqf Board;

12. Election by Mutawallis. - For the purposes of preparing the electoral roll under clause (e) of sub-rule (2) of rule 11 which shall constitute the electoral college, the Chief Executive Officer shall give one week's time to the Mutawalli(s), or as the case may be, to the managing committee(s) to elect -

- (a) the senior most mutawalli, to be the representative of such Waqf Institution in case where a waqf institutions having more than one Mutawalli; and
- (b) the President of the managing committee, as the representative of such waqf institution in case a waqf institution is being administered by a managing committee:

Provided that if the waqf institution fails to so select and communicate to the Chief Executive Officer the name of senior most mutawalli, in the case of a waqf institution having more than one Mutawalli and the President of the managing committee where a waqf Institution is being administered by such committee, then such senior most mutawalli and the President of the managing committee shall be deemed to have been elected; and the same shall be incorporated in the electoral roll for the purpose of constituting the electoral college:

Provided further that only those mutawallis or the representatives of the Managing Committees shall be eligible to vote who are registered with the Board and having annual income of rupees one lakh in the preceding year and have paid annual contribution payable to the Board under section 72 up to the preceding year.

13. Displaying of lists. — The electoral lists obtained under rule 11, shall be displayed on the notice board of the Election Authority and in the office of the Board, not less than seven days before the date notified for election and shall be published in one Urdu, Hindi, Gujarati and English language newspapers having circulation in the area.

14. Filing of objections.— (1) Any person aggrieved by the publication of electoral lists under rule 12, may file the objection petition before the Election Authority within seven days of such publication, for addition, deletion or modification of any name.

- (2) The Election Authority, after going through the objection petition, and after obtaining any further information from any source, as it may deem fit and after giving personal hearing to the objector or petitioner or to any other person, if it feels necessary, shall pass orders on the objection petition.
- (3) In the light of the orders passed, under sub-rule (2), if the electoral roll requires any modification, the Election Authority, after incorporating such modification, shall publish the final electoral roll not less than seven days before the date of election and such electoral roll shall be final and conclusive list of electors for election.

15. Public notice of intended election.— (1) After the commencement of the Act, regular election for the constitution of the Board under sub-section (2) of section 14 shall be conducted to elect the members in categories as provided in sub-clauses (i) to (iv) of clause (b) of subsection (1) of section 14, and on the expiry of the term of the Board, or on its supersession or dissolution under section 99, or for filling up of any casual vacancy caused in a particular category under section 16 or section 64, as the case may be.

- (2) For the above purpose the Election, Authority shall, subject to such directions as may be issued by the Government, by notification in Form .-III published in the *Official Gazette*, call upon on such date or dates as may be specified therein, to elect members of the Board in accordance with the provisions of the Act and the rules made there under.

- (3) The notification shall specify the last date for making nominations, the date for scrutiny of nominations, the last date for withdrawal of candidature, the place and date on which and the time during which the poll shall, if necessary, be held.
- (4) On the issue of the notification, the Returning Officer shall give public notice of the intended election for the members of the Board in Form -IV in Urdu, Hindi, Gujarati and English newspapers having circulation in the area.

16. Special election program:- Notwithstanding anything contained in these rules, where the election process is interrupted or the election program has to be altered on account of the orders of any Court of Law or for any other valid reason, to be recorded, it shall be competent for the Election Authority either generally or in respect of specified category of members to alter the election program notified under sub-rule (2) of rule 15 and to re-notify the election program as it deems fit in the circumstances of the case:

Provided that where the election program is renotified under this rule commencing from the making of nominations, the nominations already made shall be cancelled.

17. Nomination of candidates.- (1) Any person may be nominated as a candidate to fill the office of the member of the Board if he is qualified to be chosen to fill the seat under the provisions of the Act. Every nomination paper shall be in Form -V.

- (2) This shall be presented on or before the appointed date by the candidate in person, between the hours specified, to the Returning Officer at the place specified, and signed by the candidate or by a person duly authorised by him in this behalf. The candidate shall sign the declaration on the nomination paper expressing his willingness to stand for the election.
- (3) A candidate for the office of the member of the Board from any of the categories specified in clause (b) of sub-section (1) of section 14 shall be a person whose name is registered in the electoral roll of that category;
- (4) Each candidate shall be nominated on a separate nomination paper;
- (5) A candidate may be nominated for more than one categories specified in sub-section (1) of section 14.

18. Presentation of nomination paper and requirement of valid nomination.- (1) On receipt of the nomination paper, the Returning Officer shall forthwith number the nomination papers serially in the order in which it is presented and give a receipt as provided in Form -VI.

- (2) The Returning Officer or such other authorized person shall satisfy himself that the name and number of the candidate, as entered in the nomination paper, is the same as entered in the electoral roll and wherever necessary, he shall direct that the nomination form be amended so as to be in accordance with the electoral roll.
- (3) The Returning Officer may, while interpreting an entry in the electoral roll overlook merely clerical or printing errors, but he shall record the interpretation adopted by him, together with the reasons thereof, while making the formal acceptance or rejection or scrutiny of a nomination.

19. Publication of nominations received.- Immediately after expiration of the time specified for receipt of nomination papers on the dates fixed for that purpose, the Returning Officer or such other authorized person shall publish at his office in Urdu, Hindi, Gujarati and English a list in Form -VII of all the nominations received, with a notice that the nomination papers shall be taken up by the Returning Officer for scrutiny at the specified place, date and time.

20. Scrutiny of nomination papers.- (1) On the date appointed for scrutiny of the nominations, the candidate, and one other person duly authorized in writing by each candidate, may attend at such time and place as may be specified under rule 19.

- (2) The Returning Officer may, however, admit such other persons as he thinks fit to assist him. He shall give such persons all reasonable facilities to examine the nomination papers of all the candidates, which have been received as aforesaid.
- (3) The Returning Officer shall examine the nomination papers and shall decide on all objections, which may be made at the time to any nomination and may, either on such objection or on his own motion after such summary inquiry as he thinks necessary, reject any nomination on any of the following grounds, namely:-
 - (a) that the candidate is ineligible for election as a member of that particular category of the Board;
 - (b) that the candidate incurred any of the disqualifications specified in section 16 of the Act or these rules;

- (c) that the name of the candidate is not entered in the electoral rolls;
- (d) that the candidate has failed to comply with any of the provisions of rule 17; or
- (e) that the signature /thumb impression of the candidate in the nomination paper is not genuine:

Provided that the nomination of a candidate shall not be rejected merely on the ground of an incorrect description of his name or of any other particulars relating to the candidate as entered in the electoral roll, if the identity of the candidate is otherwise established beyond reasonable doubt.

- (4) The Returning Officer shall endorse on each nomination paper, his decision, accepting or rejecting the same and, if the nomination paper is rejected, he shall, record a brief statement of his reasons for such rejection. The scrutiny shall, as far as practicable, be completed on the date appointed in this behalf and no adjournment of the proceedings shall ordinarily be permissible, except at the discretion of the Returning Officer, to provide an opportunity to a candidate to rebut any contention raised against his candidature.
 - (5) For the purposes of this rule, a certified copy of an entry in the electoral roll for the time being in force of any of the categories of member of the Board shall be conclusive evidence of the fact that the person referred to in that entry is an elector for that category of member of the Board, unless it is proved that he is subject to any disqualification mentioned in the Act or these rules.
 - (6) Immediately after the nomination papers have been scrutinized and the decisions, accepting or rejecting the same have been recorded, the Returning Officer shall prepare a list of nominations found valid under each category and display it on the notice board of his office in Form . -VIII.
- 21. Withdrawal of nomination.**— Any candidate may withdraw his nomination in writing in Form -IX signed by him and delivered to the Returning Officer either in person or by his authorised agent not later than five O'clock in the evening of the appointed last date for withdrawal. The Returning Officer shall give a receipt for the same on being satisfied as to the genuineness of the notice of withdrawal and the identity of the person delivering it.
- 22. Publication of list of contesting candidates.** - (1) On the following day, after the withdrawal of nominations, the Returning Officer shall prepare in Urdu, Hindi, Gujarati and English languages a list in Form - X of the persons whose nominations have been found valid and display it on the notice board of his office and the office of the Board.
- (2) The list shall contain the names of the candidates as described in their nomination paper in Urdu, Hindi, Gujarati and English languages duly arranged in English alphabetical order.
- 23. Declaration of result of uncontested candidate.**- (1) If the number of contesting candidates is equal or less than the number of vacancy in a particular category, the Returning Officer shall forthwith declare such candidate as duly elected in Form -XI and send the same to the Election Authority.
- (2) If the number of contesting candidates is more than the number of vacancy or vacancies in a particular category, poll shall be conducted.
- 24. Appointment of Election Agent:** - The candidates shall appoint their election agents by making an application in Form 'L' to the returning officer.
- 25. Death of candidate before poll.** - If a contesting candidate dies and a report of his death is received before the commencement of the poll, the Returning Officer shall, upon being satisfied of the fact of the death of the candidate, countermand the poll and election proceedings shall be started afresh in all respect as if for a new election:
- Provided that no fresh nomination shall be necessary in the case of a candidate who stood validly nominated at the time of countermanding of the poll.
- 26. Voting.** (1) If poll is to be conducted, the Returning Officer shall take necessary action for the conduct of poll and shall see that the election is fairly conducted at the polling station, and regulate the number of electors to be admitted at one time, and shall exclude all persons other than the following: -
- (i) the candidate;
 - (ii) the police officer or other public servants on duty;
 - (iii) such persons as the Returning Officer may from time to time admit for the purpose of identifying electors;
 - (iv) persons authorised by the Government;
 - (v) a child in arms accompanying an elector; and

- (vi) a person accompanying a blind or infirm elector who cannot move without help.
 - (2) Where a woman elector cannot be identified by the Returning Officer by reason of her observing purdah, she may be required to be identified by any mode to the satisfaction of the Returning Officer.
- 27. Right to vote:-** (1) Voting is to be in person. All electors voting at an election shall do so in person at the polling station provided for them under the rules.
- (2) Counting shall be arranged at the end of the polling for the election of each category of members specified in clause (b) of sub-section (1) of section 14.
 - (3) The Returning Officer shall provide at each polling station, sufficient number of ballot boxes, together with copies of the electoral roll containing the names of electors entitled to vote and such other papers and articles necessary for electors to mark the ballot papers, stationery and forms, as may be necessary.
 - (4) Immediately before the commencement of the poll, the Returning Officer shall demonstrate to the candidates or their polling agents that the ballot box is empty.
- 28. Form of ballot paper. -** (1) Every ballot paper shall contain serial number of list of contesting candidates in Hindi, Gujarati and English in the alphabetical order of English.
- (2) Every ballot paper shall, before issue to an elector, be—
 - (a) stamped or shall be written on its back—
 - (i) the name and category of member;
 - (ii) the place of election.
 - (b) signed in full on its back by the Returning Officer.
- 29. Issue of ballot paper.—** Immediately after a ballot paper is issued to an elector, the Returning Officer shall obtain the signature of elector in token of having received the ballot paper, on the office copy of electoral roll to be retained by the polling officer for record.
- 30. Maintenance of secrecy of voting by electors and voting procedure.—**
- (1) Every elector to whom a ballot paper has been issued under rule 28 shall maintain secrecy of voting within the polling station and for that purpose observe the voting procedure hereinafter laid down.
 - (2) The elector on receiving the ballot paper, shall forthwith—
 - (a) proceed to the voting compartment;
 - (b) record his first, second, third and so on preference by writing numerical 1, 2 and 3 and so on against the names of the contestants, he intends to give the preference; and
 - (c) Insert the folded ballot paper into the specified ballot box.
 - (3) Every elector shall vote without any delay.
- 31. Blind and infirm voters. —** (1) If owing to blindness or other physical infirmity, an elector is unable to recognize the names of the contestants on the ballot paper or to write preference thereon, the Returning Officer shall record the vote on the ballot paper in accordance with the wishes of the elector, fold it and insert it into the ballot box.
- (2) While acting under this rule, the Returning Officer shall observe secrecy and shall keep a brief record of each such instance, but shall not indicate there in the manner in which any vote has been exercised.
- 32. Challenge to identity.—** (1) Any candidate may challenge the identity of a person claiming to be a particular elector by first depositing, a sum of five hundred rupees in cash with the Returning Officer for each such challenge.
- (2) On such a deposit being made, the Returning Officer shall—
 - (a) warn the person challenged, of the penalty for impersonation; and
 - (b) read the relevant entry in the electoral roll in full and ask him whether he is the person referred to in the entry or not.
 - (3) The Returning Officer shall thereafter hold a summary enquiry into the challenge and may for that purpose —
 - (a) require the challenger to adduce evidence in proof of the challenge and the person challenged to adduce evidence in proof of his identity;

- (b) put the person challenged any question necessary for the purpose of establishing his identify and require to answer them on oath; and
 - (c) Administer an oath to the challenger and any other person offering to give evidence.
 - (4) If, after the inquiry, the Returning Officer considers that the challenge has not been established, he shall allow the person challenged to vote and if he considers that the challenge has been established, he shall debar the person.
 - (5) If the Returning Officer is of the opinion that the challenge is frivolous or has not been made in good faith, he shall direct that the deposit made under sub-rule (1) to be forfeited to the Government and in any other case, he shall return it to the challenger at the conclusion of the inquiry.
- 33. Spoilt and returned ballot papers.**— (1) An elector who has inadvertently dealt with his ballot paper may, by delivering it to the Returning Officer and on satisfying him of the in advertence, be given another ballot paper and the ballot paper so returned and the counterfoil of such ballot paper shall be marked as "Spoilt cancelled" by the Returning Officer.
- (2) If an elector, after obtaining a ballot paper decides not to use it, he shall return it to the Returning Officer, and the ballot paper so returned and the counterfoil of such ballot paper shall be marked as "Returned cancelled" by the Returning Officer.
 - (3) All ballot papers cancelled under sub-rules (1) and (2) shall be kept in a separate packet.
- 34. Opening of ballot boxes.**— The counting of votes shall commence immediately after the poll at the same place where voting took place.
- 35. Counting of ballot papers.**— The Returning Officer immediately after the poll at the same place shall—
- (i) open the ballot box, count the ballot papers and ensure that the number of ballot papers found in the box is the same as the number of ballot papers issued as per the office copy of the electoral roll;
 - (ii) separate the ballot papers which he deems valid from those which he had rejected endorsing on each of the latter the word "Rejected" and the ground of rejection.
- 36. Invalidity of ballot papers.**— A ballot paper shall be invalid in any one or more of the following cases:—
- (i) same preference is recorded against more than one name;
 - (ii) numerical preference is so placed as to render it doubtful to which candidate it is intended to apply;
 - (iii) the numerical or such other figures are written opposite to the names in such a manner that it is not possible to ascertain the intended preference of the elector;
 - (iv) there is any mark or writing by which the elector can be identified.
- 37. Counting of votes.**— (1) After rejecting the ballot papers which are invalid, the Returning Officer shall.—
- (a) count the maximum number of first preference votes polled, by a candidate, then count the maximum number of second preference votes polled by a candidate and so on and arrange the name of candidates in that order;
 - (b) after such counting, the candidate having obtained maximum number of first preference votes shall be declared elected if the number of vacancy is one and in case of vacancies being two, candidates having obtained maximum number of first and second preference votes shall be declared elected for the second vacancy.
- (2) When at the end of counting, each of the contesting candidates has the same value of votes and no surplus remains capable of transfer, the Returning Officer shall decide by lot which of them shall be excluded, and after the exclusion of one of the candidates, by drawing lots, the candidate shall be declared elected.
- 38. Provision of recounting.**— (1) Any candidate or in his absence, his authorised agent may, at any time during the counting of votes, either before or after the completion of the counting of votes, request the Returning Officer to re-examine and re-count the votes of all or any candidate and the Returning Officer may re-examine and re-count the same accordingly.
- (2) The Returning Officer may, in his discretion, re-count the votes either once or more than once in any case in which he is not satisfied as to the accuracy of any previous count:
- Provided that nothing in this sub-rule shall make it obligatory on the Returning Officer to re-count the same votes more than once.
- 39. Declaration of result and return by Returning Officer.**— (1) Upon the completion of counting, the Returning Officer shall, subject to the foregoing provisions, declare the result under sub clause (i),(ii),(iii) and (iv) of

clause(b of sub-section(1) of section 14 in Form. –XI, as may be appropriate and send signed copies thereof, to the Election Authority.

(2) The Returning Officer shall thereafter-

- (a) place the valid ballot papers in one packet and the rejected ballot papers in another;
- (b) seal with the seal of the Returning Officer and of such of the candidates, their election agents or counting agents as may desire to affix their seals on each of the packets referred to in clause (a);
- (c) record on each of the sealed packets the description of its contents and the date of election.

40. Grant of certificate of election to returned candidate.- As soon as may be, after a candidate has been declared elected, the Returning Officer shall grant to such candidate a certificate of election in Form -XII and obtain from the candidate an acknowledgment of its receipt duly signed by him.

41. Material to be submitted after election.- (1) After completion of the election, the Returning Officer shall submit the following to the Election Authority for being kept in safe custody for record.—

- (i) packet of ballot papers;
- (ii) office copy of the electoral roll and counterfoils of ballot papers issued with signatures of the electors having received the ballot paper;
- (iii) brief report about fair and peaceful conduct of poll mentioning important incidents, if any, during the poll, including challenges made about the identity of any elector and the decision of Returning Officer thereon;
- (iv) office copy of certificate of election issued to elected candidates and acknowledgment receipts of the same; and
- (v) any other relevant paper(s).

(2) The record submitted to the Election Authority shall be preserved for a period of one year or till the final disposal of petition relating to election, if any, whichever is later.

42. Making of necessary nominations.— (1) Government shall make necessary nominations for filling up of the vacancies under categories (c), (d) and (e) of sub-section (1) and sub-section (3) of section 14 .

43. Appointment of members of the Board.— (1) After receipt of the names of the elected members under clause (b) of sub-section (1) and the nominated members under clauses (c), (d) and (e) of sub-section (1) and sub-section (3) of section 14, read with rule 42 of these rules, the Government shall issue a notification under sub-section (9) of section 14 appointing the members of the Board:

Provided that the date, place and time of election of Chairperson shall also be specified in this notification, giving the members, one week's notice.

(2) The notification shall be published in the *Official Gazette* and in one newspaper of Urdu, Hindi, Gujarati and English.

(3) At least two members appointed on the Board in any category shall be women.

44. Filling-up of casual vacancy.— If the election has been conducted for any casual vacancy under section 14, on receipt of the result of the election from the Returning Officer, the Government shall issue notification in the Official Gazette under sub-section (9) of section 14 appointing such person as member of the Board.

45. Election of Chairperson.— (1) After the appointment of the members to the Board under rule 43, , the Government shall notify the first meeting of the Board, for the election of the Chairperson from amongst the members of the Board.

(2) The meeting shall be presided over by the Legal Secretary to the Government, who shall conduct the proceedings for the election of the Chairperson.

(3) The name of the candidate to the post of Chairperson shall be proposed by a member, which shall be seconded by another member. The voting shall be by secret ballot.

(4) A member shall have only one vote. The candidate securing the highest number of votes shall be declared to have been elected as Chairperson.

(5) In case of a tie, the names of the candidates shall be put to lot and the Chairperson shall be selected from the lot.

(6) (a) Where a dispute arises as to the validity of election of the Chairperson or any member of the Board, any person interested may within thirty days of the declaration of the result of the election

file an application before the Tribunal for decision, and the decision of the Tribunal thereon shall be final;

- (b) no suit or other legal proceedings shall lie in any civil court in respect of any dispute/question or other matter relating to the election of Chairperson or member of the Board.
- (7) The election petition shall be accompanied by a court fee of Rs.500/- (Rupees five hundred).
- (8) The Tribunal shall dispose of the application within one year of its filing.
- (9) Expenses for the conduct of election of the members and the Chairperson of the Board shall be borne by the State Government.

46. Terms and conditions of service of the Chief Executive Officer of the Board. —

- (1) The appointment to the post of Chief Executive Officer under subsection (1) of section 23 shall be made by the Government from a panel of two Muslim Officers suggested by the Board-
 - (i) by appointment of a Government officer; or
 - (ii) by transfer on deputation of a Government officer; or
 - (iii) by open recruitment which may include an officer retired from the post not below the rank of Deputy Secretary of the Government; after advertising the post by the Board in one Gujarati and one in English language newspapers having circulation in the area if an officer in the categories, as mentioned in sub-section (1) of section 23 is not available
- (2) To be eligible for appointment to the post of Chief Executive Officer, a candidate:
 - (a) must be a citizen of India;
 - (b) must be a Muslim;
 - (c) must hold a Bachelor's degree of any of the recognized Indian Universities or hold any diploma or degree of any foreign university which in the opinion of the Government is equivalent to, or higher than, the aforesaid Bachelor's degree;
 - (d) preferably he should have the working knowledge of Urdu.
- (3) Where the Chief Executive Officer is appointed under clause (a) or clause (b) of sub-rule (1), he should not be below the rank of Deputy Secretary of the Government.
- (4)
 - (a) The scale of pay for the post of the Chief Executive Officer and other allowances admissible shall be fixed by the Government, in consultation with the Board.
 - (b) If the person appointed as Chief Executive Officer is an officer in the Government, any Union territory Administration or a local body, he shall be allowed to draw pay in his own pay scale along with other allowances admissible to him in respective Government, Union territory Administration or local body, as the case may be, plus deputation allowance as admissible under the Government rules. The period of deputation shall ordinarily be three years subject to extension upto five years by the Government in consultation with the Board for a period not exceeding one year at a time;
 - (c) If the person appointed as Chief Executive Officer is an officer who has retired from Government service, he shall draw pay in the sanctioned scale plus his pension in full, subject to the condition that the total of the pay and pension so drawn (including pension equivalent to any gratuity drawn by him) shall not exceed the pay at the time of retirement. The rules relating to Government employees lent on foreign service shall mutatis mutandis apply to such officers. Pay of Chief Executive Officer shall be borne by the State Government.
- (5) Where the Chief Executive Officer is appointed by open recruitment-
 - (a) he shall not be below the age of 45 years;
 - (b) he shall, before entering upon his office, be required to produce a certificate of physical fitness from the Medical Superintendent of the Government hospital;
 - (c) he shall be on probation for a period of one year from the date of his appointment and he may be confirmed on the recommendation of the Board with three fourth majority or his probation period may be extended for another period of one year.
- (6) The Government's traveling allowance rules for the time being in force shall apply to the Chief Executive Officer.

- (7) Periodical increments in the time scale of pay to the Chief Executive Officer shall be sanctioned by the Board.
- (8) Leave rules applicable to the Government employees and the rules relating to casual leave applicable to the Board employees shall apply to the Chief Executive Officer. Casual leave shall be sanctioned by the Chairperson of the Board and leave other than casual leave by the Government.
- (9) The date of retirement on superannuation of the holder of the post of Chief Executive Officer shall be the last day of the month on which he completes the age of 58 years:
- (10) If need be the Chief Executive Officer may relinquish his post after giving one month's notice in writing. Similarly the Board may relieve the Chief Executive Officer after giving him one month's notice:

Provided that the Board may extend the date of superannuation beyond the age of 58 years up to the age of 62 years:

Provided further that no such, extension shall be given for a period of more than one year at a time and no such extension shall be given after the age of 62 years:

Provided also that the notice period can be reduced at the discretion of the Board.

- (11) The following penalties may, for good and sufficient reasons, be imposed on the Chief Executive Officer by the Board or the Government, as the case may be, namely:-
 - (a) by the Board-
 - (i) censure;
 - (b) by the Government-
 - (i) withholding or stoppage of increment;
 - (ii) recovery from pay of the whole or part of any pecuniary loss caused to the Board or to any waqf by negligence or breach of orders;
 - (iii) reduction to lower stage in the time-scale of pay;
 - (iv) compulsory retirement;
 - (v) removal from service which shall not be a disqualification for future employment;
 - (vi) Dismissal from service which shall ordinarily be a disqualification for future employment.
- (12) In the case of penalty by the Board an appeal shall lie, within sixty days of the receipt of the order of punishment, to the Government and in respect of other penalties by the Government an appeal shall lie within sixty days to the Central Government. Before awarding any of the penalties mentioned above, the procedure prescribed in the Central Civil Services (Classification, Control and Appeal) Rules shall be followed.
- (13) Service record and personal file in the form prescribed for Government employees shall be maintained by the Chief Executive Officer. For the Chief Executive Officer Service record and personal file in the form prescribed by the Government shall be maintained by the State Government. In case of direct recruitment / appointment by the board this needs to be maintained by the chairperson.
- (14) The Government-
 - (a) shall remove the Chief Executive Office from office if at a special meeting of the Board called for the purpose a resolution for such
 - (b) removal has been passed by a majority of not less than 3/4 of the total number of members;
 - (c) may remove the Chief Executive Officer from office at any time if it appears to the Government that he is incapable of performing the duties of his office or has been guilty of neglect or misconduct in the discharge of such duties which renders his removal expedient.

47. Functions of the Chief Executive Officer.- Subject to the provisions of the Act and the rules made thereunder the Chief Executive Officer shall,—

- (i) discharge all the duties and exercise all the powers specifically imposed or conferred on the Chief Executive Officer by or under the Act;
- (ii) attend the meetings of the Board and of the committee and may take part in the discussions in an advisory capacity, but shall have no right to move any resolution or to vote;
- (iii) attend meeting of a committee of the Board if required to do so by the person presiding thereon;

- (iv) control the officers and employees working under the Board or auqaf under the administration of the Board subject to the general superintendence and the control of the Board;
- (v) initiate disciplinary action against all officers and employees of the Board or auqaf under the administrative control of the Board;
- (vi) carry into effect the resolution of the Board;
- (vii) such other functions as may be delegated by the Board.

48. Powers of Chief Executive Officer to inspect records registers, etc.-

- (1) The Chief Executive Officer or any officer of the Board authorized by him in writing in this behalf, may—
 - (a) call for any record, register or other document in the possession of or
 - (b) under the control of any waqf, registered with the Board or administered by the Board;
 - (c) require any such waqf to furnish any return, plan estimate, statement of accounts of waqf property administered by it;
 - (d) require any such waqf to furnish any information, or report on any matter connected with such waqf;
 - (e) require any such waqf to obtain the previous sanction of the Board before giving up a claim or closing down any institution administered by it which is a source of income; and
 - (f) have power to inspect any office or any record or other documents / Data of such waqf or movable properties of such waqf or any work or Institution or property under the control of the waqf. The Digital Data is required to be maintained as per prevalent IT Act in force.
- (2) Every Mutawalli of such waqf or any officer or employee of such waqf shall be bound to give facilities for exercising duties under clause (e) of sub rule (1).
- (3) The Chief Executive Officer or any officer of the Board duly authorized by him in this behalf shall, be entitled at all reasonable time to inspect, in any public office, any record, registers or other documents relating to a waqf, movable or immovable properties which are waqf properties or are claimed to be waqf properties and it shall be the duty of the officer in charge of such public office to afford all facilities and assistance as may be necessary or reasonably required in regard to the inspection. The Digital Data is required to be maintained as per prevalent IT Act in force.

49. Conditions and restrictions subject to which the Chief Executive Officer or any other officer may inspect any public office record and registers.-

- (1) Whenever the Chief Executive Officer or any other officer of the Board, duly authorized by it in writing, for the purpose of carrying out inspection under section 29 the Act, shall make an application writing to the officer in charge of the office expressing his intention so to do.
- (2) The officer in charge shall allow such inspection within three days of the receipt of such application.
- (3) The Mutawalli or any other person having the custody of any document relating to waqf property shall produce the same within seven days before the Chief Executive Officer on being called upon to do so in writing and if so desired shall supply the copies of the documents within the next ten days.
- (4)
 - (a) On a written request by the Chief Executive Officer, an agency of the Government or any other organization shall supply, within ten working days, copies of the record, register of properties or other documents relating to waqf properties or claimed to be waqf properties.
 - (b) If for any reason the required documents cannot be supplied within ten Working days, the concerned agency of the Government or the organization shall seek further time, not exceeding ten working days to supply the information/documents.
- (5) The supply of documents as required by Chief Executive Officer shall be free of cost:

Provided that before seeking information/documents as mentioned in sub - rules (3) and (4), the Chief Executive Officer shall obtain the approval of the Board.

50. Conditions for inspection and issuance of copy of document.— (1) All applications for inspection of Board's record shall be made to the Chief Executive Officer in Form - XIII XIV :

Provided that the provision of this sub-rule (1) shall not apply to applications submitted in response to notices calling for applications unless otherwise stated in the notice or to the applications made for scholarships and stipends.

- (2) Permission on application for inspection of record or proceedings of the Board or any committee may be granted by the Chief Executive Officer on payment of One Hundred rupees per hour or fraction thereof, which shall be deposited by the applicant in advance with the office of the Board.
- (3) Certified copy of record or proceedings of the Board, or any committee may be granted by the Chief Executive Officer on payment of rupees ten per page and in case of taking urgent copy rupees twenty per page

Provided that the application in Form-XIV shall be accompanied by the receipt of the Board for twenty rupees:

Provided further that the applicant shall have the right to appear to the Chairperson against the order of Chief Executive Officer. The appeal in such cases shall be accompanied by a receipt of the board for twenty rupees.

51. Authentication of orders of the Board. (1) The Chairperson or the Chief Executive Officer or any other person authorized by the Board in writing shall authenticate the orders and decisions of the Board.

- (2) The common seal shall remain in the custody of the Chief Executive Officer.
- (3) All correspondence emanating from the Board shall be in the name of the Chairperson or the Chief Executive Officer or any other person authorized by the Board in writing and all correspondence with the Board shall be addressed to the Chairperson or the Chief Executive Officer or any other person authorized by the Board in writing.

52. Manner in which an inquiry may be held by the Chief Executive Officer.—

- (1) The Chief Executive Officer shall issue notice of hearing in form XI to the mutawalli concerned against whom action is contemplated under section 64.
- (2) After having served with the notice and inquiry shall be held by the Chief Executive Officer or the other officer of the Board authorised in that behalf, as the case may be, who shall thereafter submit his report to the board.
- (3) Notice of an inquiry under sub-section (1) of section 39 shall be sent to the interested parties informing them the date, time and place fixed for holding the same.
- (4) All persons who appear in response to the notice shall be heard on the time fixed for hearing and the inquiry officer may grant adjournment from time to time for filing written statement containing objections and suggestions.
- (5) Any party to the proceedings shall have the right to appear in person or through pleader to adduce oral or documentary evidence and to apply for summoning witnesses or documents.
- (6) The inquiry officer shall record oral evidence of the witnesses and shall follow procedure laid down in the Code of Civil Procedure for the appearance of pleader, filing of affidavits, production of documents, examination of witnesses, recording of oral evidence, issue of commission and return of documents and to pass interim order.

53. Time and manner for preparation of budget.- (1) Every Mutawalli of Waqf, , shall submit a budget at least thirty days before the beginning of the financial year to the Board showing its estimated receipts and expenditure for the ensuing financial year in Form XV.

- (2) Failure to submit the budget within the prescribed time, even after notice, may entail the removal of the mutawalli/dissolution of the Committee by the Board.
- (3) The Board shall scrutinise the budget proposal and ensure that provision has been made therein for the obligatory expenditure referred to in sub-section (2) of section 44 of the Act and for carrying out the purpose which may have been specifically enjoined on the waqf by the deed of waqf.
- (4) The Board may give such directions to modify the budget in case any item is considered to be contrary to the objects of the waqf or the provisions of the Act.
- (5) If the Board is satisfied that adequate provision for certain items has not been made in the budget, it shall have power to modify it in such manner as may be necessary to secure such provision and return it to the mutawalli concerned.
- (6) Every mutawalli shall consider the suggestions and incorporate the modifications made by the Board in the budget and pass the budget before the beginning of the financial year to which it relates.

- (7) Notwithstanding anything contained in these rules, the Board may direct a Mutawalli to modify its estimates to be in keeping with the provisions of the Act and the waqf deed and such Mutawalli shall comply with the direction of the Board.
- (8) As soon as budget is passed every mutawalli shall forthwith submit copies thereof to the Board.
- (9) No sum shall be expended by or on behalf of a waqf unless such sum is included in the budget estimates sanctioned under section 44 and in force at the time of incurring the expenditure.
- (10) If in the course of the year, a mutawalli finds it necessary to alter the figures shown in the budget with regard to receipts or the distribution of the amounts to be expended on the different services undertaken by him on behalf of the waqf, a supplemental or revised budget may be submitted to the Board.

54. Budget of waqf auqaf under the direct management of the Board.- (1) The Chief Executive Officer shall prepare in Form -XV before the third week of January every year, a budget in respect of the financial year next ensuing, showing the estimated receipts and expenditure of each of the auqaf under the direct management of the Board for its approval.

- (2) Every budget submitted by the Chief Executive Officer shall comply with the requirements of sections 45 and 46 and for this purpose; reference therein to the Mutawalli of the waqf auqaf shall be construed as reference to the Chief Executive Officer. Along with the budget, the Chief Executive Officer shall also prepare and forward a statement giving details of the increase, if any, in the income of each auqaf under the direct management of the Board and the steps which have been taken for its better management and the results accruing there from during the year.
- (3) The Board shall scrutinize the budget proposals and ensure that provision has been made therein for the obligatory expenditure to be incurred under the Act and the administrative charges that shall be payable by the waqf auqaf to the Board.
- (4) If the Board is satisfied that adequate provision has not been made in the budget, it shall have power to modify it in such manner as may be necessary to secure such provision and pass the budget before the beginning of the financial year to which it relates.
- (5) If in the course of the year, the Chief Executive Officer finds it necessary to alter the figures shown in the budget with regard to the receipts or the distribution of the amounts to be expended on the different services undertaken by the Board on behalf of the waqf, a supplemental or revised budget may be framed and submitted to the Board.

55. Audit of accounts of auqaf.- (1) The accounts of the auqaf under the management of mutawalli/managing committee having net annual income exceeding fifty thousand rupees shall be submitted to the Board by such mutawalli /managing committee for audit within three months of the close of the financial year.

- (2) The case of waqf having net annual income, not exceeding fifty thousand rupees, submission of statement of accounts shall be sufficient and two percent of such auqaf shall be audited by the auditor of the Board in accordance with the provision of the clause (b) of sub-section (1) of section 47 of the Act.
- (3) Such accounts shall be audited within one year of the close of the financial year or within two years with the approval of the Chairperson for reasons to be recorded.

56. Annual contribution payable by a Mutawalli of waqf to the Board and determination thereof.— (1) The Mutawalli of every waqf, the net annual income of which is not less than five thousand rupees shall pay annually to the Board seven per cent of such annual income as annual contribution.

- (2) The Mutawalli of a waqf shall within such time as may be fixed by the Board and in such form as may be determined by the Board, submit a return of the net annual income of the waqf to the Chief Executive Officer.
- (3) On receipt of a return under sub-rule (1), the Chief Executive Officer shall verify the return submitted by the Mutawalli and if he is satisfied of the correctness of the return may fix the annual contribution in accordance with such return. If no return is filed within time the Chief Executive Officer shall suo moto fix the annual contribution to be paid by the Mutawalli.
- (4) In case the Chief Executive Officer is of the opinion that the return submitted under sub-rule (1) is incorrect or false in any material particular, or the contents of such return do not comply with the provisions of the Act or the rules made or any order issued by the Board, he may, after calling upon the Mutawalli to show cause within the time specified in the notice as to why such assessment of the return shall not be revised.
- (5) The Chief Executive Officer, after considering the reply if any, received from the mutawalli concerned may assess the net annual income of the waqf to the best of his judgment or revise the net annual income

as shown in the return submitted by the mutawalli and the net annual income as assessed or revised shall be deemed to be the net annual income of the waqf.

- (6) Any mutawalli who is aggrieved by the decision of the Chief Executive Officer in fixing or revising the assessment may prefer an appeal to the Board within fifteen days from the date of receipt of the assessment or revision of return and the Board may after giving the Mutawalli a reasonable opportunity of being heard, confirm, reverse or modify the assessment or revision of the return.
- (7) Failure to submit the accounts and remittance of money in time, without proper explanation may render the removal of the Mutawalli/ dissolution of the managing committee.

57. Circumstances and conditions subject to which Board may reduce or remit contribution.- (1) No contribution payable by a Mutawalli under section 72 shall be remitted or reduced except with the previous sanction of the Board.

- (2) The reduction or remission sanctioned by the Board shall be operative only for the year for which it is sanctioned provided that where its continuance in subsequent year is found necessary, the Board shall give fresh sanction.
- (3) The board may, on application from a Mutawalli, by order, sanction remission or reduction of the contribution to be paid by mutawalli in the following cases, namely:-
 - (a) loss of money, stores of articles of the waqf not due to the negligence of the mutawalli or other employees of the waqf;
 - (b) loss of income due to failure of crop on account of drought or other unforeseen causes like flood;
 - (c) paucity of funds due to the mismanagement of the previous mutawalli;
 - (d) paucity of funds due to non-recovery of loans, advances and debt;
 - (e) where the waqf supports an orphanage whose resources are insufficient for its due management; and
 - (f) other causes, approved by the Board with three forth majority.
- (4) Before a reduction or remission of contribution is sanctioned, the Board shall make a thorough investigation into the circumstances of each case and satisfy itself that such reduction or remission is necessary.

58. Payment of moneys into Waqf Fund and investment of such money.-

- (1) The Board shall authorize one of its officers (hereinafter referred to as "the authorized officer") to receive all payments to the Waqf Fund; to issue receipts and to make payments on behalf of the Board.
- (2) The authorized officer shall be required to furnish to the Board, securities or sureties for such amount as the Board may specify in that behalf. Solvency of sureties shall be got verified by the Sub-Divisional Magistrate of the area where the official is residing at the beginning of each year.
- (3) The authorized officer shall grant receipts for all moneys received by him to the credit of the Waqf Fund. Counterfoil receipt bearing printed receipt numbers shall be maintained for the purpose.
- (4) All such moneys shall immediately be deposited in-
 - (a) a Scheduled Bank as defined in the Reserve Bank of India, Act, 1934 (2 of 1934), or
 - (b) a Post Office Savings Bank Account.
- (5) All such deposits shall be made in the name of the Board. The Chairperson and any other member or officer of the Board authorized in this behalf by the Board shall have the powers to withdraw such deposit or any part thereof and operate on the bank account subject to such conditions as the Board may think proper.
- (6) No money shall be withdrawn from the bank unless it is required for immediate payment for the purpose of the Board.
- (7) The appropriation of receipts to expenditure shall, as a rule, be avoided.
- (8) Payments from the Waqf Fund shall be made by cash or cheque. Cheque shall not be issued for sums less than five hundred rupees.
- (9) Moneys indisputably payable shall not be left unpaid and money paid shall not be kept out of the account a day longer than absolutely necessary.

- (10) Any person having a claim against the Board shall present a voucher duly verified and stamped. All vouchers shall be filled and signed in ink. The amount shall be written in figures as well as in words. All corrections and alterations in the vouchers shall be attested by the dated initials of the person signing the voucher.
- (11) Receipts for all sums exceeding five thousand rupees either by cash or cheque shall bear the revenue stamp of the requisite value.
- (12) An officer authorised to handle the moneys of the Waqf Fund shall be responsible for their custody and also for reimbursing to the Board, in case of any loss by theft, fraud, fire or any other cause:

Provided that if in any case, after such inquiry as the Board may make, the Board is satisfied that the loss was unavoidable and was not due to any negligence on the part of the officer responsible for the proper custody of the amount, the Board may not insist on reimbursement of the amount of the loss by the officer concerned, but may write it off.

- (13) Amount not required for expenditure during the year shall be invested by the Board.—
- (a) in one or other of the following securities:
- (i) promissory notes, debentures, stocks or other securities of the Central Government;
- (ii) stock or debentures of, or shares in companies, the interest wherein shall have been guaranteed by the State Government or the Central Government;
- (iii) debentures or other securities for money issued by or on behalf of any Municipal body under the authority of any Act; or
- (b) in fixed deposits for a period not exceeding three years in
- (i) a Scheduled Bank as defined in the Reserve Bank of India Act, 1934 (2 of 1934); or
- (ii) for the purchase or for the first mortgage of immovable property with the previous sanction of the Government.
- (14) The investment under sub-rule (13) shall not be pledged, encashed or withdrawn without the prior sanction of the Board.
- (15) The Board shall cause to be maintained such books of account and other books in relation to its accounts in such form and in such manner as may be provided by it. The pages in the account books, registers, receipts, etc., shall be serially numbered and each page shall be affixed with the seal of the Board. The number of pages that each book or register contains shall be noted on the first page after actual verification by the Chief Executive Officer.
- (16) It shall be the responsibility of the Chief Executive Officer to ensure that the contributions, fees, rents and other amounts due to the Board are promptly demanded, realised and credited to the Waqf Fund.
- (17) The Chief Executive Officer shall be in charge of the work relating to the finance, budget and accounts of the Board.
- (18) The Chief Executive Officer shall discharge the following duties and functions in relation to the budget, account, and audit of the Board, namely:-
- (a) he shall be responsible for ensuring that the budget estimates of the Board are properly framed keeping in view the instructions issued by the Board and the Government in this behalf and submitted to the Board within the time schedule;
- (b) he shall scrutinise the budget proposals submitted by the Mutawallis thoroughly and assist the Board in scrutinising the budget proposals;
- (c) he shall examine and advise on all scheme of new expenditure for which it is proposed to make a provision in the budget;
- (d) he shall ensure that monthly and annual accounts of the Board are compiled properly and promptly;
- (e) he shall obtain necessary periodical returns of progress of expenditure, watch and review the progress against sanctioned amounts and issue such instructions as may be found necessary to the officers and employees of the Board;
- (f) he shall scrutinize the proposals for supplementary grants and advise the Board suitably;
- (g) he shall keep himself in regular touch with the audit objections and inspection reports of the audit and for their early settlement;

- (h) he shall keep a close watch on the recoveries of dues to the Board and repayment of loan and interest;
 - (i) he shall be responsible for the maintenance of accounts of the Board;
 - (j) he shall obtain periodical returns of stores and stocks and their value from the officers and review them. He shall offer his remarks on such accounts and place it before the Board;
 - (k) he shall furnish any information and statistics that may be called for by the Board on matters relating to budget, accounts and audit;
 - (l) he shall arrange for internal audit of accounts of the Board periodically and take urgent steps to rectify any defects noticed during such audit;
 - (m) he shall report to the Board all instances of payments made contrary To the rules and regulations besides cases where payments are made in the absence of any provision in the budget estimates.
- (19) The Board may prepare revised estimates during the financial year keeping in view the actual and probable expenditure during the year.

59. Budget of the Board.— (1) The Chief Executive Officer shall in every year prepare in Form - XXIII, a budget in respect of the financial year next ensuing, showing the estimated receipts and expenditure during that financial year and place before the Board by 31st December.

- (2) The Board shall scrutinise the budget proposal and make suitable modification, if necessary, and forward a copy of the same to the Government before 31st January.
- (3) On receipt of the budget forwarded to it, the Government shall examine the same and suggest such alterations, corrections or modifications, to be made therein as it may think fit and forward such suggestions to the Board for its consideration.
- (4) On receipt of the suggestions from the Government, if the Board does not agree with any modifications, corrections or alterations made by the Government in the Budget, the Board may forthwith make written representation to the Government with regard to the alterations, corrections or modifications suggested by the Government.
- (5) The Government shall consider the representation of the Board and pass final orders in the matter and communicate its decision within a period of three weeks from the date of receipt of such representation.
- (6) On receipt of the suggestions from the Government and if no representation has been made by the Board to such suggestions or the Government has communicated its decision regarding any representation, if any, made by the Board, the Board shall incorporate in its budget all the alterations, corrections, modifications finally suggested by the Government and the budget so altered corrected or modified, shall be passed by the Board. A copy of the budget so passed shall be forwarded to the Government. In case no objection is received from the Government within fifteen days, the budget shall be declared to be final.
- (7) If, in the course of the year, the Board finds it necessary to alter the figures shown in the budget with regard to the receipts or the distribution of the amounts to be expended on the different services undertaken by the Board, a supplemental or revised budget may be framed and got sanctioned in the manner provided in these rules and copies thereof forwarded to the Government.
- (8) No sum shall be expended by the Board unless such sum is included in the budget estimates sanctioned under section 78 and in force at the time of incurring the expenditure.

60. Recovery of property transferred in contravention of the Act.—

- (1) Upon receiving report from any person residing in the locality where the waqf property is situated or upon receiving information otherwise that a waqf property has been transferred in contravention of the provisions of section 51 or 56, the Board shall ascertain from the Register of Auqaf, maintained under section 37, if the property alleged to have been transferred is waqf property, and in case that be so, the Board shall obtain a certified copy of the deed of transfer from the registration office concerned.
- (2) The Chief Executive Officer, after conducting an inquiry in the manner prescribed in rule 52 shall draw up a report specifying therein fully the waqf property, the details of the transfer deed executed in respect of the property, the name and full particulars of the person executing the deed or other document and the name with particulars of person or persons to whom the property has been transferred. The report shall also contain the result of the comparison of the details of the property with the entries in the Register of Auqaf and the result of the inquiry from the record of the Board regarding unauthorised transfer.
- (3) The report shall be put up for orders of the Board which, after considering the report of the Chief Executive Officer and inspecting such of the documents as may appear necessary and/or making inquiry

from such persons as is considered reasonable, pass orders for sending a requisition to the Collector of the respective district to obtain and deliver possession of the property to the Board.

- (4) The requisition to the Collector shall be drawn by the Chief Executive Officer in Form- XVI and sent to the Collector of the respective district through special messenger or by registered post acknowledgment due.
- (5) The order passed by the Collector under subsection (2) of section 52 of the Act, shall be in Form XVII.
- (6) If the person against whom an order under sub-section (2) of section 52 is issued, prefers an appeal to the Tribunal as provided by sub-section (4) of the said section, he shall send a copy of the memorandum of appeal to the Collector immediately on the day of filing the appeal and the Collector shall arrange for its defence and shall also give intimation of such appeal to the Board.
- (7) While obtaining possession of the property, using such force as may be necessary, as provided in sub-section (5) of section 52,
 - (a) no person executing the Collector's orders, shall enter any dwelling house without giving forty-eight hours' notice to the occupants of the dwelling house;
 - (b) no outer door of any dwelling house shall be broken open unless the occupants of such dwelling house refuse or in any way prevent access thereto;
 - (c) no person executing the Collector's order shall enter any dwelling house after sunset and before sun rise;
- (8) After obtained possession of the property, the Collector or any person duly authorised by him in this behalf shall hand over the said property to the Board or to any person duly authorised by the Board on proper acknowledgement.

61. Removal of encroachment of waqf premises; Form of notice.- A notice for removal of encroachment under sub-section (1) of section 54 shall be in Form -XVIII.

62. Manner of service of notice and order.- (1) A notice issued under subsection (1) of section 54 shall be served by delivering or tendering a copy of the notice, as the case may be, to the person for whom it is intended or to any adult member of his family, or by sending it by registered post acknowledgment due or by speed post in a letter addressed to that person at his usual or last known place of residence or business, or by having it affixed on the outer door or some conspicuous part of the waqf premises.

Where the copy of notice under sub-rule (1) is delivered or tendered, the signature of the person to whom the copy is so delivered or tendered, shall be obtained in token of acknowledgment of the service.

- (2) In respect of a notice issued under sub-section (1) of section 54, where the person or the adult member of the family of such person refuses to sign the acknowledgement, or where such person cannot be found after using all due and reasonable diligence, or if there is no adult member of the family of such person, a copy of the notice or the order, as the case may be, shall be affixed on the outer door or some other conspicuous part of the ordinary residence or usual place of business of such person and the original shall be returned to the Chief Executive Officer who issued the notice with a report endorsed thereon or annexed thereto stating that a copy has been so affixed, the circumstances under which it was done so and the name of the person, if any, by whom the ordinary residence or place of the business was identified and in whose presence the copy was affixed.
- (3) If a notice under sub-section (1) of section 54 and an order issued under sub-section (3) of section 54 cannot be served in the manner provided in sub-rule (1), the Chief Executive Officer may, if he thinks fit, direct that such notice shall also be published in at least one newspaper having circulation in the area and he may also proclaim the contents of any notice or order in the locality by beat of drum or in any other manner which he may think appropriate, in the facts and circumstances of each case.

63. Holding of inquiries and passing of order.- (1) Where any person on whom a notice under this Act has been served, desires to be heard through his representative, he shall authorize such representative in writing.

- (2) The Chief Executive Officer shall record the summary of the evidence tendered before him and pass order as provided in sub-section (1) of section 54 in Form -XIX. The summary of such evidence and any relevant document file before him shall form part of the record of the proceedings before the Tribunal.
- (3) If the waqf property is not vacated within 15 days of the receipt of the notice in Form - XIX, the Chief Executive Officer may make application before the Tribunal for grant of order of eviction for removing such encroachment and deliver possession of the waqf property to the Board or the Mutawalli.
- (4) The Tribunal, after giving an opportunity of being heard, to the person against whom application has been made, pass order of eviction and cause a copy of the order of eviction to be on the waqf property.

- (5) If any person fails to comply with the order of eviction passed by the Tribunal within forty five days of the service of the order, the Chief Executive Officer shall refer the matter to the Executive Magistrate of the area in Form - XX.

64. Manner of taking possession of waqf premises.- (1) On receipt of application in Form -XX from Chief Executive Officer under section 55, the Executive Magistrate of the area shall pass an order in Form -XXI within one month of the receipt of application.

- (2) In case the encroachment is not removed within fifteen days of the order, the area Magistrate shall proceed to remove the encroachment within a month of the expiry of the notice period.
- (3) If any obstruction is offered, or in the opinion of the Executive Magistrate is likely to be offered-
- to the removal of encroachment taking possession of any waqf property; or
 - to the sealing of erection of work of the waqf premises, under the Act, the Executive Magistrate may take such police assistance as may be necessary.
- (4) Where any waqf premises of which possession is to be taken under the Act is found locked, the Executive Magistrate may either seal the premises or in the presence of two witnesses break open the lock or open or cause to be opened any door, gate or other barrier and enter the premises:

Provided that, -

- no entry shall be made into or possession taken of a waqf property before sunrise or after sunset;
 - where any waqf premises are forced open, an inventory of the articles found in the premises shall be taken in the presence of two witnesses.
- (5) The sealing under sub-rule (4) shall be made in the following manner, namely:-
- affixing the office seal on outer door or any erection or work of any waqf premises after all other outlets and inlets to the erection or work of waqf premises have been properly bolted, locked or encircled with rope, wire or wire mesh;
 - where doors and windows have not been fixed to any erection or work of waqf premises or where the erection of work on waqf premises is of such a nature that it cannot be encircled with rope, wire or wire mesh, in that case such erection or work of waqf premises shall be covered by wooden planks, iron or cement sheets and office seal affixed in a manner that no person can enter into or upon the erection or work of waqf premises without tampering with the office seal;
 - where any erection or work or any waqf premises is found locked the lock may be broken or any door, gate or any other barrier caused to be opened in the presence of witnesses and an inventory of the articles found in the premises shall be prepared in the presence of the two witnesses before affixing the seal in the manner aforesaid.
- (6) Whosoever, being a public servant, fails in his lawful duty to prevent or remove encroachment shall, on conviction be punishable with fine which may extend to fifteen thousand rupees for each of such offence.

65. Assessment of damages.- (1) In assessing damages for unauthorized use and encroachment of any waqf premises, the Tribunal shall take into consideration the following matters, namely:

- the purpose and the period for which the waqf premises remained in unauthorized use;
- the nature, size and standard of the accommodation available in such premises;
- the rent that would have been realized if the premises had been let out; on rent for the period of encroachment to any other person;
- any damage done to the premises during the period of encroachment;
- any other matter relevant for the purpose of assessing the damages.

66. Manner of holding inquiry by the Board.— (1) The Chief Executive Officer shall issue notice of hearing in Form XI to the Mutawalli against whom action is contemplated under section 64 of the Act for the purposes of holding an inquiry against him.

- (2) The procedure followed for such inquiry shall be the same as provided in rule 52.

67. Manner of publication of order.— A copy of the order passed by the Board under sub-section (2) of section 67 of the Act shall be supplied free of cost to the person adversely affected thereby and one copy of the same shall be published in one English, Hindi or Gujarati language newspaper having circulation in the area and on such publication the order shall be binding on all persons having any interest in the waqf.

68. Manner of consultation with the Mutawalli and manner of publication of order.

- (1) Any scheme for the proper administration of the waqf under sub-section (1) of section 69 of the Act shall be framed by the Mutawalli, managing committee or the applicant giving details as follows:
 - a. name of the waqf;
 - b. address;
 - c. whether under the management of the mutawalli/managing committee or under the direct management of the Board;
 - d. details of the proposal;
 - e. expenditure involved;
 - f. income to be generated.
- (2) The proposal shall be considered by the Board where the matter shall be put up by the mutawalli/ managing committee or the applicant. The Board shall take the decision and shall communicate the same within fifteen days.
- (3) The decision of the Board shall be published in the Urdu/Gujarati language newspaper having circulation in the area

69. Manner of holding inquiry.— Inquiry under clause (a) of sub-section

- (1) of section 71 shall be held in the same manner as prescribed in rule 52.

70. Appointment of Tribunal.- (1) The Tribunal shall be appointed by the Government.

- (2) The Government may appoint as many as Additional Tribunals depending on the pendency of cases, and distance from waqf properties.

71. Qualifications and mode of selection of a member of Tribunal, having knowledge of Muslim law and jurisprudence.- (1) The candidate should have degree in Law and shall have basic knowledge Muslim Law.

- (2) The members of the Tribunal shall be selected by the Board headed by the Secretary Legal Department, as Chairperson, Islamic Scholar of repute and Chairman/member of Bar Council as member.
- (3) Tenure of the member so selected shall be for a period of three years extendable for a further period of two years at a time.
- (4) Age of the member so selected shall be below 45 years.
- (5) Leave of various kinds shall be as admissible to Government employees.

72. Salary and allowances of members other than Chairman and ex-officio members,- Scale of pay members as referred in sub-section (4A) of section 83 of the Act shall be Rupees 15600-39100 with the grade pay of Rupees 7,600 plus usual allowance as admissible to group A officers.**73. Tenure of Tribunal.-** The deputation of Chairman and members of the Tribunal shall be for a period of three years or which may be extended for a further period of two years at the direction of the Government.**74. Age of superannuation of Tribunal.-**

1. The age of superannuation of the Chairman of the Tribunal shall be the last day of the month in which officer attains the age of Sixty years.
2. The age of superannuation of the Member of Tribunal shall be the last day of the month in which officer attains the age of fifty eight years.

75. Seal of the Tribunal.- The official seal of the Tribunal shall be such as the Government may specify.**76. Code of Civil Procedure and the Gujarat High Court Rules to be generally followed.—** In deciding any question relating to the procedure not specially provided by the Act or these rules, the Tribunal shall, as far as possible, be guided by the provisions contained in the Code of Civil Procedure, 1908 and the Gujarat High Court Rules and Gujarat State Waqf Tribunal (Procedure) Rules 1998.

- 77. Board to submit Annual Report to the Government .-** (1) The Government shall, as soon as after 1st day of July in every year, cause the Annual Report of the Board to be prepared in Form -XXIV.
- (3) The Board shall submit its Annual Report to the Government by the end of July every year. The Government shall finalise the Annual Report of the Board by the end of September and lay before both the Houses of State Legislature in its next session.
- 78. Performance report of Board to be sent to Central Waqf Council.-** The Government or, as the case may be, the Board, shall furnish information to the Central Waqf Council on the performance of Board, particularly on their financial performance, survey, maintenance of waqf deeds, revenue record, encroachment of waqf properties, annual reports and audit reports in the manner and time as may be specified by the Central Waqf Council in Form -XXV.
- 79. Suits by or against the Board.** (1) The Chairperson or the Chief Executive Officer or any other officer authorize by them shall be competent to sanction.
- a. filing of suit, writ, appeal or cases connected with a waqf matters/ property before the Tribunal/ Court or any other authority;
- b. defending of suit, writ, appeal or cases connected with a waqf matter/ property before the tribunal/ Court or any other authority.
- (2) The Chairperson/ Chief Executive Officer/any officer authorized by either of them in this behalf shall be competent to appoint an advocate to file or defend a suit, writ, appeal or any other proceedings connected with a waqf matter/property before the Tribunal/Court or any other authority.
- (3) The Board or any other person, authorized by the Board shall be competent to sign suit, writ, appeal, and affidavit or counter reply in the cases or proceedings connected with a waqf matter/property before the Tribunal/Court or any other authority.
- (4) The Chairperson or Chief Executive Officer shall be competent to authorize any employee of the Board to tender evidence or produce record on behalf of the Board before the Tribunal/Court or any other authority.
- 80. Restriction on addition or alteration in waqf property. -** A mutawalli or managing committee shall not make additions or alteration in the waqf property without the prior approval of the chairman or chief executive officer.
- 81. Restriction on creation or transfer of tenancy of waqf property.-** Any creation or transfer of tenancy of the waqf property by Mutawalli or managing committee without the prior approval of the Board shall be void and of no effect.
- 82. Interpretation:-** If any question arises as to the interpretation of these rules, the State Government shall decide the same.
- 83. Relaxation of rules.—** The Government may, on the recommendation of the Board, with 3/4th majority, relax any provision of the rules in the interest of waqf.
- 84. Repeal of savings.—** (1) The Waqf Rules 1998 are hereby repealed.
- (4) Notwithstanding such repeal, anything done or any action taken under the said Rules shall be deemed to have been taken under the corresponding provisions of these Rules:
- Provided that such repeal shall not affect the previous operation of the corresponding Rules, and subject thereto, anything done or any action taken in the exercise of any power conferred by or under the corresponding Rules shall be deemed to have been done or taken in the exercise of the powers conferred by or under these Rules as if these Rules were in force on the day on which such things were done or action was taken.
- 85. Power to remove difficulties.-** (1) If any difficulty arises in giving effect to the provisions of these rules, the State Government may, by order, not inconsistent with the provisions of these Rules, remove difficulty:
- Provided that no such order shall be made after the expiry of the period of two years from the commencement of these Rules.
- (2) However, order made under these Rules shall be laid, as soon as may be after it is made, before each House of Legislature.

FORMS**FORM— I**

[See rule 5]

REPORT OF SURVEY COMMISSIONER TO THE GOVERNMENT

1. The number of auqaf in the State, showing Shia waqf and Sunni waqf separately;
2. The nature and object of each waqf.
3. The gross income of the property from each waqf.
4. The amount of land revenue, cess, rates and taxes payable in respect of each waqf.
5. The expenses incurred in the realisation of income and the pay or other remuneration of the mutawalli, if any, of each waqf.
6. Particulars relating to each waqf to be given as under:
 - (a) name of the waqf;
 - (b) name of the waqif, if any;
 - (c) date or the year of the creation of the waqf;
 - (d) details of the Waqf Deed;
 - (e) name of the mutawalli and his pay or remuneration, if any;
 - (f) location and nature of immovable property showing the village or town where situated along with the municipal or survey number, area, description of the tenure and the estimated value thereof;
 - (g) description of movable property and value thereof, including investments and their particulars;
 - (h) site plan of the waqf property;
 - (i) encumbrances, if any, on the properties mentioned in clauses (f) to above
 - (j) manner of administration of waqf, whether under the scheme settled by a court of law or by a registered document or established custom or usage;
 - (k) whether the waqf is already under the general supervision of the Board;
 - (l) nature and value of grant received,
 - (m) Total cost of survey.

SIGNATURE OF SURVERY COMMISSIONER**Form-II**

[See rule 7]

PARTICULARS OF LIST OF AUQAF

1. Name of waqf with description of waqf property (e.g. land building, graveyard etc.).
2. Location of waqf property, stating khasra no., village in rural areas and mohalla, ward, road, and municipal number in case of urban property.
3. Object of waqf.
4. Details of waqf properties, if immovable:
 - a) area, showing built up area separately;
 - b) boundaries; and
 - c) value.
5. Nature and value of movable property.

6. Date or year of creation of waqf
 7. Details of Waqf Deed.
 8. Gross receipts.
 9. rents received.
 10. Nature and object of waqf.
 11. Gross income of property comprised in each waqf.
 12. Amount of land revenue, cess, rates and taxes payable in respect of such property.
 13. Expenses incurred in realisation of income.
 14. Manner of administration of waqf,
 15. Name and address of mutawalli.
 16. Pay or remuneration of mutawalli of each waqf, if any.
 17. Any other particular the Board considers necessary or which the Government may, by order provide.
- Note— Separate list shall be prepared for Sunni and Shia auqaf.

Form-III

[See rule 15(2)]

NOTICE FOR ELECTION OF MEMBERS OF THE GUJARAT STATE WAQF BOARD

1. Name of the category for which election is to be held
2. Nomination papers shall be presented:
 - (a) time between:
 - (b) place
 - (c) to whom with office address
3. Scrutiny of nomination papers:
 - (a) place
 - (b) date
 - (c) time
4. Withdrawal of nomination:
 - (a) place
 - (b) date
 - (c) time
5. Polling shall be held:
 - (a) place
 - (b) date
 - (c) time
6. Counting of votes by the Election Officer:
 - (a) place
 - (b) date
 - (c) time

7. Declaration of results:

- (a) place
- (b) date
- (c) time

Form-IV

[See rule 15 (4)]

**NOTICE OF ELECTION FOR THE OFFICE OF
MEMBERS OF GUJARAT STATE WAQF BOARD**

Notice is hereby given that:

1. An election is to be held for the election of members of the Gujarat State Waqf Board.
 2. Forms of nomination papers may be obtained from the place and at the time aforesaid
 3. Nomination paper may be delivered by a candidate or his proposer to the undersigned from_____ to _____ between 10.30 a.m. to 5-00 p.m.
 4. The nomination papers will be taken up for scrutiny at _____on____at_____.
 5. Notice of withdrawal of candidature may be delivered by a candidate or his proposer to the undersigned at his office before 3.00 p.m. on_____
 6. In the event of election being contested the poll will be taken on_____between_____ the hours_____at_____
- (Specify the place where voting is to be conducted).

RETURNING OFFICER

Place:

Date:

Form-V

[See rule 17(1)]

**ELECTION FOR THE OFFICE OF MEMBER OF GUJARAT STATE WAQF
BOARD IN CATEGORY OF CLAUSE (b) OF SUB-SECTION (1) OF
SECTION 14
NOMINATION PAPER**

1. Full name of candidate
2. Father's or husband's name
3. Serial number of candidate in electoral roll
4. Age
5. Sex
6. Occupation
7. Address

CANDIDATE'S DECLARATION

I..... declare that I am willing to stand for election and my age as shown above is correct.

I also declare that:

1. I am a Muslim.
2. I am not an undischarged insolvent.
3. I have not been convicted of an offence involving moral turpitude or such conviction has been reversed or I have been given full pardon in respect of such offence.
4. I have not been in any previous occasion:
 - (a) removed from office as a member or as a mutawalli; or
 - (b) removed by an order of competent court or Tribunal from any position of trust either for mismanagement or corruption.

SIGNATURE OF CANDIDATE

Endorsement by Returning Officer or other Authorized Person.

This nomination paper was presented to me (person) on _____ (date) at _____ (date and hour)

**SIGNATURE OF THE RETURNING OFFICER
/OR OTHER AUTHORISED PERSON.**

Decision of Returning Officer accepting or rejecting the nomination paper.

I have examined this nomination paper in accordance with rule 18 and decide as follows:—

Date.....

RETURNING OFFICER

Form-VI

[See (rule 18(1))]

RECEIPT FOR NOMINATION PAPER AND NOTICE FOR SCRUTINY

(To be handed over to the person presenting the nomination paper)

Serial no. of nomination paper.....

The nomination paper of.....a candidate for the election of member for category..... of the Gujarat State Waqf Board was delivered to me at..... (hour) on..... by the..... Candidate or a person duly authorized by him in this behalf.

All nomination papers will be taken up for scrutiny at _____ (hour) on (date) at (Place).

Date:

RETURNING OFFICER

Form-VII

[See rule 19]

LIST OF NOMINATIONS RECEIVED ON (DATE)**..... FOR THE OFFICE OF MEMBER OF THE GUJARAT STATE****WAQF BOARD IN CATEGORY OF SECTION****14(1) (B) OF THE ACT**

Serial no of nomination	Name of the candidate	Father or husband's name	Age	Occupation and Address	Electoral roll no of Candidate
1	2	3	4	5	6

The nomination paper will be taken up for scrutiny at _____A.M./P.M.on.....the date of.....at (place).

Place:

SIGNATURE OF RETURNING OFFICER

Date:

Or Other Authorized Person**Form-VIII**

[See Rule 20(6)]

LIST OF VALIDLY NOMINATED CANDIDATES

Election to members of the Gujarat State Waqf Board in category of clause (b) of sub-section (1) of section 14.

SL No. Name of the candidate Address of the candidate

(1) (2) (3)

1.

2.

3.

4.

so on

RETURNING OFFICER

Place:

Date:

Form-IX**[See rule 21]****NOTICE TO THE RETURNING OFFICER BY A CANDIDATE FOR MEMBERSHIP OF THE
WAQF BOARD IN THE CATEGORY OF.....***Section 14(1) (b) of the Act*

To

The Returning Officer,

I, a candidate validly nominated at the above election do hereby give notice that I withdraw my candidature.

Place:

Date:

SIGNATURE OF CANDIDATE

This notice was delivered to me at my office at (hour) on (date)

By (name).

Place:

Date:

RETURNING OFFICER**RECEIPT FOR NOTICE OF WITHDRAWAL***(To be handed over to the person delivering the notice)*

The notice of withdrawal of candidate by a Candidate at the election to the office of the Gujarat State Waqf Board in the category of section 14 (1) (b) of the Act as delivered to me at the office at..... (Hour) on _____(date).

Place:

Date:

RETURNING OFFICER**Form -X****[See rule 22(1)]****LIST OF CONTESTING CANDIDATES**

Election to the office of the member of the. Gujarat State Waqf Board in the categoryof section 14(1) (b) of the Act

SI No.	Name of the candidate	address of the candidate
--------	-----------------------	--------------------------

(1)	(2)	(3)
-----	-----	-----

1.

2.

3.

4.

5.

etc.

Place

Date:

RETURNING OFFICER

Form-XI**[See rules 23(1) and 39(1)]****DECLARATION OF RESULT OF ELECTION UNDER RULE
OF 23(1) AND 38(1) THE GUJARAT STATE WAQF RULES,
2014**

In accordance with rule.23(1) of the Gujarat State Waqf Rules, 2014, I declare that the following candidate has been duly elected for the office of the Member of the Gujarat State Waqf Board in the category of sub clause (b) of sub section 14 of the Waqf Act-1995

Name:

Address:

Place:

Date:

SIGNATURE OF RETURNING OFFICER**Form-XII****[See Rule 40]****CERTIFICATE OF ELECTION**

I, -----Returning Officer for the member/members of the Gujarat State Waqf Board hereby certify and declare Shri/Smt.-----S/O, W/O-----

to have been duly elected to the Officer of the member of the Gujarat State -Waqf Board in the category of sub clause---
-----of clause (b) of sub section (1) of section 14 of the Waqf Act 1995 and that in token thereof I have granted him this certificate of election.

..... SIGNATURE OF RETURNING OFFICER

Place:

Date:

Secretary_____
to the Government

Form XIII**[Rule 50 (1)]****APPLICATION FOR INSPECTION**

To
The Chief Executive Officer,
Gujarat State Waqf Board,
.....

Name of the applicant..... s/o,w/o Shri.....

Resident of.....

Description of the file the record of which is to be inspected
.....

Nome of the tenant (if any).....
 Name of the parties (if any).....
 Purpose of inspection.....

Date

SIGNATURE OF APPLICANT

Order passed on the application by Chief Executive Officer.....

Time of inspection.....from.....to.....viz.....hours.

Inspection fee paid.....

Signature of official with designation in whose presence inspection was made.....

Dated:

SIGNATURE OF APPLICANT

AFTER INSPECTION MADE

form-XIV

[Rule 50(3)]

APPLICATION FOR COPY

Paste duplicate copies of:

- (i) Application fee receipt
- (ii) Copying charges fee receipt Rs. 10/- per entry of Gazette notification,
- (iii) Rs. 20/- per 100 words or part thereof.
- (iv) Rs. 20/- per hour of inspection or fraction thereof

To

The Chief Executive Officer,
 Gujarat State Waqf Board,

.....

Name of applicant..... s/o, w/o.....

Resident of.....

Description of the file etc. from which the copy is required

.....

Description of property including location.....

Name of tenant (if any).....

Name of parties (if any).....

Nature of the case.....

Name and description of the Gazette or record of which copy is required.....

Purpose for which copy is required i.e whether it is required for private use or for filing in some court etc

Dated:

SIGNATURE OF APPLICANT

No. of applicant in the copying registers.....

Copying fee received with application.....

Order passed.....

SIGNATURE OF CHIEF EXECUTIVE OFFICER

Dated: Signature of copyist

Signature of recipient of the copy.....

Form-XV

[See rule 53(1), 54(1)]

**SEPARATE BUDGET BY MUTAWALLIES AND AUQAF UNDER
THE DIRECT MANAGEMENT OF THE BOARD****Receipts****Expenditure**

Receipts of rent from the properties	Donation/contribution	Salary of the employees	Maintenance of property
miscellaneous receipt, if any		expenditure	
Excess of expenditure over receipt		Miscellaneous expenditure with details	
2. Actual for the current year		Excess of receipt over expenditure	
3. Actual for the preceding year	Proposed		

WB-XVI

[See Rule 60 (4)]

**REQUISITION UNDER SUB-SECTION (1) OF
SECTION 52 TO THE COLLECTOR FOR RECOVERY OF WAQF IMMOVABLE PROPERTY
TRANSFERRED IN CONTRAVENTION OF SECTION 51 OR SECTION 56**

1. Details of waqf property
2. Particulars of transfer deed, if any, executed in respect of the above property.
3. Name and full particulars of the person executing the deed, if any.
4. Name and full particulars of the person to whom the property has been transferred.
5. Result of comparison of the details of waqf property with the entries in the register of auqaf maintained under section 37 of the Waqf Act, 1995
6. Result of inquiry from the record of the Board regarding absence of sanction for the said transfer as required under section 51 or transferred in violation of section 56 of the Waqf Act.

place

Dated:

**CHIEF EXECUTIVE OFFICER
GUJARAT STATE WAQF BOARD**

FORM WB-XVII

[See Rule 60 (5)]

**ORDER OF THE COLLECTOR FOR DELIVERING
POSSESSION OF WAQF PROPERTY****To****Shri.....**

Whereas a requisition has been received under sub-rule (2) of rule 60 of the Waqf Rules, from the Chief Executive Officer, Gujarat State Waqf Board, regarding transfer of waqf property, detailed in the Schedule below in your favor by Shri in contravention of section 51 or section 56 of the Waqf Act, 1995.

Now, therefore in exercise of the powers conferred by sub-section (2) of section 52 of the said Act. I..... Collector, District_____ hereby direct you to deliver possession of the said property to the Gujarat State Waqf Board or to any person duly authorized by the said Board, within a period of thirty days from the date of service of this order failing which ejectment proceedings shall be initiated against you. If you are aggrieved by the order, you may, within a period of thirty days from the date of service of this order, prefer an appeal to the Tribunal. In case you fail to comply with this order, and do not prefer an appeal within the time specified, the said property shall be taken possession of by me or by any person duly authorized using such force, as may be necessary for the purpose, and deliver it to the said Board.

Date

SIGNATURE OF THE COLLECTOR

SEAL.....

Form —XVIII

[See Rule 61]

**FORM OF NOTICE UNDER SUB-SECTION (1) OF SECTION 54 OF
THE WAQF ACT, 1995**

To

Shri/Smt/Km.....

Whereas I,..... the undersigned, am of the opinion, on the grounds specified below that you are an encroacher of the waqf property mentioned in the schedule below and that you should vacate the said premises:

Grounds

Now, therefore, in pursuance of the provisions of subsection (1) of section 54 of the Waqf Act, 1995, I hereby call upon you to show cause on_____ why such an order should not be made;

And in pursuance of sub-section (3) of section 54 of the Act, I also call upon you to appear before the undersigned in person or through a duly authorized representative, capable to answer all questions connected with the matter along the evidence which you intend to produce in support of the cause shown, on____ at_____ for personal hearing. In case, you fail to appear on the said date and time, it will be presumed that you are an encroacher on the said waqf property and further action shall be taken for your eviction according to law.

SCHEDULE

Details of Waqf Property:

Date:

Signature and seal of the

Chief Executive Officer

FormXIX

[See Rule 63 (2) & 63 (3)]

Whereas, I the undersigned, am satisfied for the reasons recorded below that Shri/Smt./Km.....is an encroacher and unauthorized occupant of the waqf premises specified in the Scheduled below:

Now, therefore, the undersigned under section 54 of the Waqf Act, 1995, hereby order Shri/Smt./Km and all persons who are in unauthorized occupation of the waqf property or any part thereof to vacate the said premises

within 15 days of the service of this notice. In the event of refusal or failure to comply with this order within the period specified above, the matter shall be referred to the Tribunal for passing appropriate order.

SCHEDULE

Details of waqf property:

**SIGNATURE AND SEAL OF THE CHIEF
EXECUTIVE OFFICER**

Form-XX

[See rule 64(1)]

APPLICATION TO EXECUTIVE MAGISTRATE UNDER SECTION 55 OF THE WAQFACT 1995

To

The Executive Magistrate,

.....

Whereas the Waqf Tribunal has passed an order under sub-section (4) of section 54 of the Waqf Act 1995 on (Copy enclosed); Whereas Shri/Smt./Km..... has failed to vacate the land, building, space or other property to which the order relates, within the time specified in the order;

Whereas under section 55 of the Waqf Act 1995, you are requested to make an order, directing the encroacher to remove the encroachment, as the case may be, vacate the land, building, space or other property and to deliver possession thereof to Shri..... mutawalli/Secretary of the Managing Committee of the property / Waqf Board In default of compliance with the order, remove the encroachment or evict the encroacher within one month of the receipt of this application from the waqf premises with the assistance of police.

Whereas your attention is drawn to proviso to sub-section (6) of section 7 of the Waqf Act, 1995 (as amended)

**SIGNATURE AND SEAL OF THE
CHIEFEXECUTIVE OFFICER**

Date:

Form XXI

[See rule 64(1)]

ORDER BY THE EXECUTIVE MAGISTRATE

Whereas the Tribunal has passed an order under sub-section (4) of section 54 of the Waqf Act 1995 (copy enclosed).

And whereas Shri/Smt./Km..... has failed to comply with the order of the Tribunal within the stipulated period;

Now therefore, in exercise of the powers conferred upon the undersigned, under section 55 of the Waqf Act 1995, I direct, Shri/Smt./Km

.....to remove the encroachment/vacate the waqf premises within fifteen days of the service of this order, failing which Shri/Smt./Km.

.....is/are liable to be evicted, if need be, by the use of such force as may be necessary.

EXECUTIVE MAGISTRATE

Form-XXII**[Section 82(2)]****CERTIFICATE OF RECOVERY**

To

The Collector,

.....

This is to certify that an amount of (Rs) is due to the Waqf Board, a statutory authority under the law from Shri/Smt./Km..... in respect of the waqf property (as detailed below) on account of rent/damages/expenses/ costs/interest.

In pursuance of section 82 of the Waqf Act 1995 I, the Chief Executive Officer request you to proceed to recover the same as arrears of land revenue.

CHIEF EXECUTIVE OFFICER

WAQF BOARD

Details of Waqf property:

Form-XXIII**[See rule 59(1)]****(Part-A)****BUDGET ESTIMATE OF INCOME AND EXPENDITURE FOR THE****FINANCIAL YEAR****DETAILS****INCOME****EXPENDITURE**

Head of income	Actual for immediately preceding year	Budget estimate of current year	Revised estimate of current year	Budget estimate for next financial year	Head of expenditure	Actual for year immediately preceding current year	Budget estimates of current year	Revised budget estimate for the current year	Budget estimates for next financial year
1	2	3	4	5	6	7	8	9	10

1. Contributions from auqaf under 1. Deficit from previous year. section 72 (1)
2. Other income:-
 - (a) Interest on investments and advance
 - (b) Fees for supply of documents and other petty items.
 - (c) Rents of land and building
 - (d) Cash grants and amenities
- (a) Allowance of fees to the Chairperson or members of the Board or Committees
- (b) (i) Pay of Chief Executive Officer
- (ii) Pay of establishment in the Board's office
- (c) (i) Travelling allowance
- (ii) Other allowances
- (d) (i) Rents,
- (ii) Postage
- (iii) Stationary
- (iv) Books and periodicals
- (v) Electric and lighting charges
- (vi) Telephone charges

- DEFICIT at the end of the next financial year..... Total.....

(Part-B)

Receipt	Actual for the year immediately preceding current year	Budget estimate of current year	Revised budget estimate for current year	Budget estimate for next financial year	Head of expenditure	Actual for year immediately preceding current year	Budget estimatesof current year	Revised budget estimatefor the current year	Budget estimates for next financial year
1	2	3	4	5	6	7	8	9	10

(i)	Income	(i)	Expenditure
(ii)	Loans	(ii)	Payment of loans*
			Cash balance at the end of year **

** Includes advances of pay, travelling allowances and lawyer's fees.

[illegible]

Cash balance*

Loans

Deficit at the end of the year

* Includes advances of pay, travelling allowances and lawyer's fees.

Form-XXIII

[See rule 59(1)]

(Part-D)

**BUDGET ESTIMATES OF INCOME AND EXPENDITURE DURING THE
FINANCIAL YEAR ABSTRACTS**

Actual for the immediately preceding year	Budget estimate for current year	Revised budget estimate for current year	Budget estimates for next year	Remarks
1	2	3	4	5

Deficit at the end of the next financial year.....

Form- XXIV

[See Rule 77]

**Content of the Annual Report on the working and administration of the
Gujarat State Waqf Board and the administration of auqaf in.....**

INDEX

- Section I----- Administration and management
- Section II----- Financial position
- Section III----- Remunerative enterprises
- Section IV----- Removal of encroachment, protection and leasing of waqf property
- Section V:----- Status of litigation with details of number of cases Filed/defended in Tribunals and courts and the results
- Section VI----- Development works
- Section VII: ----- Religious works including maintenance of mosques and shrines.
- Section VIII----- Charity
- Section IX: -----Grant of educational and vocational institutions and centres
- Section X----- Any other activity

Section 1: Administration and management**1. Jurisdiction:-**

- (i) The area and population of Muslims.
- (ii) Number of auqaf.
- (iii) Number of circle and branches, if any.
- (iv) Number of mutawallis.
- (v) Number of waqf institutions.
- (vi) Status of survey of waqf properties.
- (vii) Number of new waqf registered during the year.

2. Personnel:-

- (i) Number and names of Board members
- (ii) Number of members by election and their names along with the electoral, colleges.
- (iii) Number of members by nomination, their names and category.
- (iv) Chairperson-name and date of election.
- (v) Chief Executive Officer — name and period from which working
- (vi) Names of other officers (office and field)

3. Meetings and attendance:-

- (i) Number of ordinary and special meetings of the Board and meetings adjourned meetings.
- (ii) Regularity in holding of Board's meetings and attendance of members in the meetings.
- (iii) Whether meetings of the Board held as per Rules and Regulations. If not, reason thereof
- (iv) Information regarding agenda and resolution-number of resolution
 - (a) tabled during the year;
 - (b) passed;
 - (c) discussed and withdrawn;
 - (d) referred again by the Chief Executive Officer to the Board;
 - (e) referred by the Chief Executive Officer to the State Government, and
 - (f) dropped.

4. Committees

- (i) Number of Standing Committees, their functions alongwith names of members:
- (ii) General summary of work of each Committee, average attendance and comments of the Board regarding the Standing Committees.

5. Summary of other meetings held in the head office or elsewhere during the year.

6. Date and details of Annual General meeting of the Board

Section II: Financial Position

1. Summary of the accounts during the year

Head of account	Opening balance	Receipt during the year	Expenditure during the year	Closing balance
1	2	3	4	5
Auqaf account				

2. Investments, loans and grants Details of capital investments, loans and grants may be given.

3. Audit:-

- (i) The period for which the audit has been completed under section 80, and action taken on the audit report.
- (ii) Cases of mis-appropriation of money by the waqf institutions and action taken under the provisions of the Waqf Act, 1995 by the Waqf Board.
- (iii) Cases of improvement in the finances of any waqf, whether under direct management.
- (iv) Vigilance cases against the staff of Board.

Section III: Remunerative enterprises

1. Development of waqf properties from the funds of the Board or form loans from Central Waqf Council or any other institution and the achievements there of and increase in the income by the development of the waqf.
2. Details of any other commercial project taken by the Board.

Section IV: Removal of encroachments, protection and leasing of waqf property.

- Whether the list of encroachments is maintained by the Board and a programme to identify the encroachment on waqf properties is taken up by the Board. If so, detail thereof
- Progress in implementation of the relevant provisions of the Waqf Act, 1995 to remove encroachments. Implementation of the orders and requisition sent to the Collector and Executive Magistrates regarding the removal of encroachment and restoration of waqf properties to ne given with the action taken in detail. -Problems faced by the Board in enforcement of orders to be highlighted. Information for removal of encroachment to be given in the following table:

SI No.	Category of waqf	Number of encroachments detected	Number of encroachments removed	Number of cases where proceeding are pending
1	2	3	4	5

- Leasing of waqf properties: Total number of waqf properties leased,. Number o proposals for lease received and disposed of by the Board. Amount of lease, donation etc. received to be given in details.

Section V: Status of litigation

- Details of applications, suits and writ petition pending in various courts to be given. Expenditure incurred by way of counsel fees to be given in the report. The efficiency of the panel of Advocates to be examined by checking number of cases in which orders are passed in favour of the Board.
- Number of applications filed and defended in Tribunal and writs and suits filed in other courts during the year. Expenditure on counsel fee and other expenditure in legal cases during the year to be given.
- Regarding Tribunals, the number of appeals and applications filed their disposal by each Tribunal may be reviewed. Problems faced by the Tribunal(s) in the disposal of cases may be highlighted. The Tribunal fee collected and its remittance to the waqf fund to be examined.

Section VI: Development works

- Details of construction of buildings in head office and branch offices and schools etc. with their estimate and expenditure during the year.
- Maintenance of all such buildings mentioned in para (1) to be given with estimate and expenditure on maintenance.
- Development and maintenance of waqf property (not religious) like boundary walls etc, with estimate and expenditure during the year.

Section VII: Religious work

- Details of construction of mosques with estimate and expenditure.
- Details of maintenance expenditure of mosques, dargahs etc, along with amount of electricity bills.
- Amount spent on urs and other festivals.
- Details of salary of Imams and moazzins with number in different categories.
- Details of grants to mosques.

Section VII: Charity

- Amount of pension of widows and orphans and details of their number district wise.
- Amount of pension of retired Imams with details
- Amount of other charity, like marriage of poor girls and others.
- Amount of scholarship and number of students with classes.
- Any other expenditure.

Sr No	Name of waqf (full address)	Type of waqf (a) Masjid/Madresa (b) Qabristan/Open Land (c) Dargah (d) Khanqah/Peerkha (e) Imambara/Karbala (f) Others (Specify)	Source of income by waqf property (a) Rent (b) Donation (c) Gift (d) Advertisement (e) Others (specify)	Annual revenue generated	7% contribution U/S/72 received by the waqf board	Annual expenses for maintenance of the auqaf	Grant received from (a) Govt. agencies (b) Private agencies	Disbursement of amount under various schemes	Number of beneficiaries
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Form - XXV**[See Rule-78]****(Part –B)****Performa under sub section (4) of section 9 of the Waqf Act 1995 (as amended in 2013)****Survey**

Sr. no.	Name of waqf Situated at	Year of commencement of survey	Waqf/ survey number	Kind of waqf (general/ family)	Land measuring area of waqf property	Whether entry made in register of auqaf	Whether gazette notification issued	If no. reason thereof
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Form - XXV**[See Rule-78]****(Part –C)****Performa under Sub Section (4) Of Section 9 Of The Waqf Act 1995(As Amended In 2013)****Maintenance of Waqf Deeds**

Sr. no.	Name of waqf Property	Name of the waqif and year of creation	Nature of waqf	Type of waqf	Specify the purpose of waqf i.e.education, burial, welfare of the community, orphanage, etc.	Details of waqf property	Name and mobile number of present Mutawalli
			(a) alal-khair (general)	(a) Masjid/Madresa		(a) House	
			(b) alal-aulad (family)	(b) Qabristan/Open Land		(b) Agriculture Land	
				(c) Dargah		(c) Grove/Garden	
				(d) Khanqah/Peerkha		(d) Others (Specify)	
				(e) Imambara/Karbala			
				(f) Others (Specify)			

Form - XXV**[See Rule-78]****(Part D)****Performa under sub section (4) of section 9 of the Waqf Act 1995(as amended in 2013)****Waqf properties duly updated with the revenue record**

Sr. no.	Particulars	Registration of waqf	Type of waqf	Land measuring area of waqf property	Registered with revenue record	Revnuce record details	Mutation in the name of
	(a) Name of waqf property	(a) By deed/will	(a) Masjid/Madresa				(a) Waqf board
	(b) Address	(b) By notification /survey	(b) Qabristan/Open Land			(a) Year of mutation	(b)Trust/ waqf
	(c) Year of creation of waqf	(c) By entry in register of auqaf	(c) Dargah	(a) Built up area	Yes/no	(b) Name of distt. office	(c) individual
	(d) Waqf alal- khair (general)	(d) By user	(d) Khanqah/ Peerkha	(b) Open area		(c) Book no.	
	(e) waqf alal – aulad (family)		(e) Imambara/ Karbala			(d) Serial no.	
			(f) Others (Specify)				

Form – XXV**[See Rule-78]****(Part E)****Performa under sub section (4) of section 9 of the Waqf Act 1995(as amended in 2013)****Encroachment of waqf properties**

Sr no.	Name Of Waqf Property (Full Address)	Record Of Waqf	Type of waqf	Encroachment by	Name and address of encroacher	Whether action taken u/s/ 54 and 55 of the waqf act, 1995 (as amended). Yes/no If no, reason thereof	Whether action taken u/s/ 56 of the waqf act, 1995 (as amended). after expiry of lease Yes/no If no, reason thereof
		a) Year of creation of waqf b) Waqf/survey number c) Waqf alal-khair(general) d) Waqf alal-aulad (family) e) Land measuring area of waqf property	(a) Masjid/Madresa (b) Qabristan/Open Land (c) Dargah (d) Khanqah/Peerkha (e) Imambara/Karbala (f) Others (Specify)	a) Government or its agency b) Institution Or individual			

